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SUPREME COURT, U. S.

# TRANSCRIPT OF RECORD

## Supreme Court of the United States

OCTOBER TERM, 1943

## No. 76

SIDNEY ARCENEAUX, PETITIONER

vs.

LOUISIANA

ON WRIT OF CERTIORARI TO THE SUPREME COURT
OF THE STATE OF LOUISIANA

PETITION FOR CERTIORARI FILED MARCH 31, 1943
CERTIORARI GRANTED FEBRUARY 15, 1943

# Supreme Court of the United States

**OCTOBER TERM, 1963**

# No. 76

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SIDNEY ARCENEAUX, PETITIONER

*vs.*

LOUISIANA

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ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF LOUISIANA

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INDEX


| | Original | Print |
|---|---|---|
| Proceedings in the Supreme Court of the State of Louisiana | | |
| Denial of writs of habeas corpus and alternatively for certiorari, mandamus and prohibition | 1 | 1 |
| Motion for leave to file application for writs of habeas corpus, etc. | 2 | 2 |
| Affidavit of Sidney Arceneaux (omitted in printing) | 3 | 3 |
| Affidavit of Louis Glen Fuller (omitted in printing) | 4 | 3 |
| Order granting filing of application for writs of habeas corpus | 5 | 3 |

| | Original | Print |
|---|---|---|
| Application for writs of habeas corpus and alternatively for certiorari, mandamus and prohibition | 8 | 4 |
| Exhibit A—Affidavit of Sidney Arceneaux | 23 | 17 |
| Exhibit B—Affidavit signed by Mayo Decou on January 26, 1962, against Sidney J. Arceneaux, filed as No. 575 with the Clerk of the Court, Parish of Lafayette, Louisiana | 28 | 21 |
| —Authorization to the Clerk, City Court of Lafayette, from W. E. Logan, Jr., Assistant District Attorney, to permit Mayo Decou to make a criminal charge against Sidney J. Arceneaux for vagrancy | 29 | 23 |
| Exhibit C—Warrant and bail order issued by Lucien C. Bertrand, Jr., Judge Ad Hoc, City Court of Lafayette, Louisiana on January 26, 1962 referring to Sidney J. Arceneaux | 30 | 24 |
| Exhibit D—Motion for preliminary examination, alternatively habeas corpus, and order issued on February 27, 1962, in Criminal Docket No. 14982, Fifteenth Judicial District Court, Parish of Lafayette, Louisiana | 31 | 26 |
| Exhibit E—Bill of Information, bearing Criminal Docket No. 14983, filed March 9, 1962 | 33 | 28 |
| Exhibit F—Answer to motion for preliminary examination, signed by Bertrand DeBlanc, District Attorney, filed March 9, 1962 in Criminal Docket No. 14982 | 35 | 30 |
| Exhibit G—Minute Entries of March 8 and March 9, 1962 in Criminal Docket No. 14982 | 36 | 31 |
| Exhibit H—Letter from Attorneys, Simon & Trice to Honorable A. Wilmot Dalferes, dated March 9, 1962—Notice of intent to apply for writs | 39 | 34 |
| Clerk's certificate (omitted in printing) | 40 | 34 |
| Order granting motion for leave to proceed in forma pauperis and granting petition for writ of certiorari | 41 | 35 |

[fol. 1]

**IN THE SUPREME COURT OF THE STATE LOUISIANA**

**New Orleans**

No. 46,064

STATE OF LOUISIANA

*v.*

SIDNEY ARCENEAUX

DENIAL OF WRITS—March 16, 1962

In re: Sidney Arceneaux applying for writs of habeas corpus and alternatively for certiorari, mandamus and prohibition

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Writ refused. There is no error of law in the ruling complained of.

/s/ WBH

/s/ JBH

/s/ FWH

/s/ EHMcC

/s/ JWS

/s/ FWS

---

[Clerk's Certificate to foregoing paper omitted in printing]

[fol. 2]

IN SUPREME COURT OF THE STATE OF LOUISIANA

46064

STATE OF LOUISIANA, EX REL., SIDNEY ARCENEAUX

*vs.*

W. E. HARSON, SHERIFF OF LAFAYETTE PARISH, LOUISIANA, and A. WILMOT DALFERES, JUDGE, FIFTEENTH JUDICIAL DISTRICT COURT

---

IN THE MATTER OF

State of Louisiana

vs.

Sidney Arceneaux

15th Judicial District Court
Parish of Lafayette

Cr. Docket No. 14,982

MOTION FOR LEAVE TO FILE APPLICATION FOR WRITS OF HABEAS CORPUS ETC.—

Relator moves to be permitted to file his application attached hereto without the payment of costs pursuant to the Forma Pauperis laws of the State of Louisiana and annexes hereto affidavits in support thereof.

SIMON & TRICE
301 E. Congress Street
Lafayette, Louisiana

By /s/ J. Minos Simon
Attorneys for Realtor

[fol. 3]

AFFIDAVIT OF SIDNEY ARCENEAUX

[omitted in printing]

[fol. 4]

AFFIDAVIT OF LOUIS GLENN FULLER

[omitted in printing]

[fol. 5]

ORDER GRANTING FILING OF APPLICATION FOR WRITS OF HABEAS CORPUS, ETC.—March 13, 1962

Considering the motion and affidavits attached,

IT IS ORDERED that Sidney Arceneaux be and he hereby is authorized and empowered to file the foregoing application for writs without the payment of costs or the giving of bond.

OFFICIALLY GRANTED on this 13 day of March, 1962, at New Orleans, Louisiana.

/s/ W. B. Hamlin
Associate Justice

[fols. 6-7] * * *

[fol. 8]

IN THE SUPREME COURT OF THE STATE OF LOUISIANA

Docket No. 46064

STATE OF LOUISIANA, EX REL., SIDNEY ARCENEAUX

*vs.*

W. E. HARSON, SHERIFF OF LAFAYETTE PARISH, LOUISIANA, and A. WILMOT DALFERES, JUDGE, FIFTEENTH JUDICIAL DISTRICT COURT

IN THE MATTER OF

State of Louisiana

*vs.*

Sidney Arceneaux

15th Judicial District Court
Lafayette Parish

Cr. Docket #14,982

---

APPLICATION FOR WRITS OF HABEAS CORPUS AND ALTERNATIVELY FOR CERTIORARI, MANDAMUS AND PROHIBITION—filed March 13, 1962

The State of Louisiana, on the relation of Sidney Arceneaux, a resident of Lafayette Parish and a citizen of the United States and of the State of Louisiana, appearing through undersigned counsel, moves for the issuance of a writ of habeas corpus directed to respondent Sheriff and respondent Judge ordering forthwith the release of relator or alternatively for writs of certiorari, mandamus and prohibition directed to respondent judge revoking

the ruling complained of whereby relator's application for writs of habeas corpus and preliminary examination was dismissed on March 9, 1962, or alternatively to show cause if any he has why said writs of certiorari, manda- [fol. 9] mus and prohibition should not issue as provided for by law and finally why relator should not be forthwith released and discharged.

## JURISDICTION

The jurisdiction is conferred upon this Honorable Court by Article 7, Section 10 of the Louisiana Constitution, by R.S.15:113 and 114 and by the general supervisory jurisdiction vested in this Honorable Court and because of the constitutional issues herein raised.

## STATEMENT OF THE CASE

1.

Relator is a white male born in Acadia Parish, Louisiana, on December 16, 1934; that he is one of seven children born of the marriage between Cleveland Arceneaux and Josephine Lentier. Because of the poverty and ill health of his parents at a very early age he and his two older sisters had to lend themselves as hired hands in cotton fields for the purpose of contributing to the support of his family. As a result of such circumscribing circumstances your relator was unable to attend public schools except on an average of once a week for a period of seven years and only as a result acquired a fourth grade education. Relator has no special skill and because of his lack of formal education, he has been able to eek out an existence working as a farm laborer wherever he could obtain employment, all as is more particularly shown on the annexed affidavit marked Exhibit A.

[fol. 10] 2.

In pursuance of his efforts to eek out an existence, sometimes during the month of April, 1961, he obtained employment as a farm laborer with one Meus Lagneaux, a

resident of Lafayette Parish, Louisiana, and owner of farm land therein; the terms of said employment were that said Meux Lagneaux, hereinafter sometimes referred to as employer, was to pay relator as wages the sum of Four and No/100 ($4.00) Dollars per day and to provide relator with room and board;

3.

In pursuance of said employment your relator reported for work and commenced to discharge his duties during the month of April, 1961; the room provided by said employer to relator consisted of a single room structure with approximate dimensions of eight by ten feet and the facilities therein provided for consisted only of one bed and one electric bulb. There were no bath room facilities whatever, except for the existence of one water pipe that terminated in the interior of said room with an attached faucet; the food supplied to relator consisted of two meals a day, at noon and at night, which were prepared by said employer and served to relator in employer's kitchen.

4.

Employer paid to relator his wages for the month of April, 1961, which payments were made in cash, but thereafter contrary to the terms of the employment refused and failed to pay said wages to your relator; additionally on an average of approximately twice a week, relator was given only one meal a day inasmuch as on these occasions employer and his family absented themselves from employer's residence for the night meal and [fol. 11] as a result relator went without meal, because otherwise he had no money with which to purchase something to eat;

5.

This condition of virtual peonage continued for approximately eight months, during the course of which relator repeatedly made demand for payment of his wages but employer on each occasion responded by telling relator said wages would be paid at a later date; relator further

avers that on or about January 16, 1962, while relator was still existing under the circumstances hereinabove described, employer directed relator to perform a chore not embraced by his employment and for which someone else, namely, a colored male, was receiving compensation. Relator avers that he refused to comply with the instruction of his employer, remonstrating with his said employer that the work requested was not part of his duties and furthermore that employer had failed to pay relator his wages for the performance of his regular duties and that these wages were long past due and should be immediately paid; whereupon employer summarily ordered relator to leave his premises; relator further avers that thereupon relator requested permission of his said employer to be permitted to leave his clothes in his said one room building for approximately a week while relator sought out other employment to which request employer consented but continued to refuse to pay relator's wages.

6.

Relator avers that he hitch-hiked to New Orleans to meet one of his sisters residing thereat in search of employment but because of his lack of education and experi- [fol. 12] ence and skill he was unable to obtain any employment. After a period of approximately eight days and particularly on January 25, 1962, he returned to Lafayette Parish by the same method of travel that had brought him to New Orleans and on his return chanced a meeting with the brother of one Mrs. Joseph Sonnier, who disclosed to relator that Mrs. Sonnier was in need of help in connection with the operation of a small dairy farm; whereupon relator immediately repaired to the residence of the said Mrs. Joseph Sonnier, who immediately agreed to employ your relator and requested that relator appear the following morning for the purpose of commencing his said employment.

7.

At approximately 5:00 o'clock P.M. on said date and immediately on leaving the residence of said Mrs. Joseph Sonnier, your relator went to his one room shack to gather

his clothing preparatory to reporting for work the following morning; on arrival at his said room he discovered his clothes in tack and immediately thereafter went to the residence of one Reule Breaux located approximately three miles from relator's room for the purpose of attempting to borrow $2.00 or $3.00 with which to buy food stuff. Said Breaux however advised relator he had no money on him and therefore could not lend relator the money requested; whereupon relator returned to his said room.

8.

After relator had been in his room for approximately ten minutes, four deputies of the Sheriff's office in Lafayette Parish, including among whom was one Murphy Lagneaux, son of the said employer, Meus Lagneaux, appeared at his room and advised relator that the said Meus Lagneaux had instructed them to arrest relator for tres- [fol. 13] passing on private property; thereupon said deputies took relator in their custody and placed him in a cell in the Parish Jail at Lafayette, Louisiana, where relator remains to this date.

9.

Relator is informed, believes and therefore avers that upon his arrival at the Parish Jail, said deputies met with one Earl Picard, another deputy sheriff of Lafayette Parish, who advised the said deputies that a charge of criminal trespass would not lie and after the passage of some time said Earl Picard drew up a charge of vagrancy which was finalized in the form of an affidavit signed by one Mayo Decou, another deputy sheriff of Lafayette Parish, a certified copy of which is annexed hereto and marked Exhibit B; that at the time of your relator's arrest said deputies had no legal authority whatever but on the contrary were acting in violation of the civil rights of your relator, in aresting your relator either without formal charge or without a warrant of arrest;

10.

Obviously as an afterthought, and in an effort to give some legal coloring to relator's incarceration, but which has resulted only in a perversion of the original wrongful arrest and incarceration of your relator, respondent W. E. Harson, Sheriff, acting through one of his deputies, obtained on January 26, 1962, a warrant for the arrest and incarceration of your relator, predicated on the same charge for which relator already had been in jail since the night before the issuance of the warrant for relator's arrest, a copy of which warrant is annexed hereto and marked Exhibit C.

11.

[fol. 14] Upon his incarceration relator requested permission to use a telephone for the purpose of calling an attorney, Mr. James Domengeaux of Lafayette, but in refusing to accord this request to relator respondents deputies advised relator that they did not have time and that they, said deputies, would call said attorney for relator; your relator waited several days in vain for the appearance of said attorney and consequently repeatedly renewed his request to use a telephone for the purpose of contacting said attorney and on each occasion was given the same excuse as originally given; after approximately three weeks in jail relator again requested the use of said telephone for the purpose of calling another attorney, Mr. Harold Savoie of Lafayette, Louisiana, but again in refusing said request relator was advised by said officials that they did not have time and that they would contact said counsel for relator; relator avers he renewed his request repeatedly and repeatedly was given the same response until on or about February 26, 1962, after relator had learned of the name of said counsel, relator requested the use of a telephone to call Mr. J. Minos Simon, attorney of Lafayette, Louisiana, and contrary to his previous experiences in this respect relator was immediately given permission to use said telephone which he did and as a result a conference ensued and because of relator's stark poverty and the gross injustice visited upon him the firm of SIMON AND TRICE, agreed to represent said relator without compensation;

[fol. 15] 12.

An examination of the record in this matter discloses that the filing of the charge of vagrancy on January 26, 1962, against relator, which was the day following his actual arrest and incarceration, was approved by one W. E. Logan, Jr., Assistant District Attorney of the Fifteenth Judicial District in Lafayette Parish, Louisiana; that therefore from that date forward said Assistant District Attorney received full knowledge of the charges filed against relator and of his incarceration.

13.

Irrespective of the fact that said Assistant District Attorney had full knowledge of relator's incarceration, relator was never taken before a committing magistrate, as required by R.S.15:79 and 80, nor was he ever brought before the judge who later issued the warrant, despite the command contained therein as required by Louisiana R.S.15:50 and 79, and, as a consequence, relator was not remanded for preliminary examination to determine the basis for his incarceration as required by Louisiana R.S. 15:82; that on the contrary these relator's civil rights were willfully, intentionally and knowingly repressed by the said Assistant District Attorney, the Sheriff and his deputies of Lafayette Parish, Louisiana.

14.

On February 27, 1962, relator's counsel presented to A. Wilmot Dalferes, respondent judge, an application for preliminary examination and, alternatively, for writs of habeas corpus, and respondent judge signed the order, ordering both preliminary examination and habeas corpus hearing for March 8, 1962, all as more fully appears on copy thereof annexed hereto and made part hereof, as Exhibit D.

[fol. 16] 15.

A copy of the application and order was promptly served by a deputy clerk, a person capable of giving evi-

dence, but respondent Sheriff did not make thereafter any written return as required by R.S.15:127 and 128 but appeared in Court on March 8, 1962, and in response to the habeas corpus hearing extracted from his pocket the warrant of arrest mentioned herein and identified as Exhibit C, and upon its production, even though said warrant was issued subsequent to relator's actual incarceration respondent judge summarily dismissed relator's application for habeas corpus.

16.

The Assistant District Attorney Logan then moved for a continuance, alleging verbally that he had not been served with copy of the motion and order, but not denying he had been notified or did not have knowledge, and respondent judge granted the continuance, to March 9, 1962, although the motion was not in writing, as required by R.S.15:321, and did not specify legal grounds for continuance, in that there is no requirement for service upon the District Attorney.

17.

On March 9, 1962, the District Attorney filed a bill of information against relator, copy of which is annexed hereto and marked Exhibit E, wherein relator is charged with the offense of vagrancy, in that he was found in a private place without being able to account for his lawful presence there.

[fol. 17] 18.

Said District Attorney then filed in connection with relator's preliminary examination an answer, a copy of which is annexed hereto and marked Exhibit F, wherein he alleged he had filed said bill of information that morning, and asked "that the application for a preliminary examination be denied . . ."; the "answer" does not ask that the order granting preliminary examination be revoked or recalled.

19.

Respondent judge thereupon recalled said order and denied relator the right to preliminary examination, to which relator objected and reserved a bill of exception, the ruling of said judge and the objection having been transcribed, a copy of said transcription being annexed hereto and marked Exhibit G.

20.

As shown therein, relator's objections were substantially as follows:

a. Respondent judge was granting relief not requested in the State's answer;

b. Inasmuch as there had been no indictment found or information filed when relator applied for preliminary examination, he had an absolute right, under R.S.15:154 to obtain preliminary examination, and the filing of a bill of information on the date set for preliminary examination could not be given retroactive effect, so as to accord the court any discretion.

c. Even if the court now had discretion, the preliminary examination should continue because relator had been imprisoned for six weeks for an alleged act of vagrancy, was financially destitute and could not make bail, and had no hope of trial for at least another month.

d. The entire circumstances denied him his right to a speedy trial, in violation of the Constitutions and statutes of the United States and the State of Louisiana.

[fol. 18] e. The bill of information charged no criminal offense, and if it did set forth an alleged offense in the language of a statute, then such statute and the bill of information are unconstitutional, null and void, being violative of both Federal and State Constitutions.

21.

Relator additionally avers that the Louisiana law which would require relator to stand trial for the offense alleged

before a judge alone is contrary to the guarantee of trial by jury contained in the United States Constitution.

22.

Relator further avers that the penalty that might be imposed upon him in the event of conviction would not suffice to give him right of appeal to this Honorable Court under Article 7, Section 10 of the Louisiana Constitution, and he would then have no right of appeal to any court; that denial of appeal alone is violative of the Federal Constitution, and is particularly a denial of due process; that under said Article this Honorable Court may review criminal appeals on questions of law alone; that under Article 7, Section 83 of the Louisiana Constitution, one convicted and sentenced for vagrancy in the Parish of Orleans has a right of appeal, on both facts and law, to an appellate division of the criminal district court, while elsewhere in Louisiana such person has no right of any appeal whatsoever; and that such distinction deprives relator and others similarly situated of equal justice as well as due process, and is in violation of the United States Constitution.

[fol. 19]

23.

Consequently, relator avers that he cannot be tried for the offense alleged except in violation of his constitutional rights.

24.

Relator avers that his initial arrest and incarceration were procured and effected not only without legal authority but solely for the purpose of intimidating your relator in an effort to discourage and dissuade your relator from further pursuing his demand for wages against his said employer; that his said arrest and incarceration were procured and effected by the combined and concerted efforts of said employer, his son, who at the time and currently is a duly appointed deputy sheriff, and three other deputies of respondent Sheriff while acting under color of law and solely for the purpose of depriving

your relator of his liberty and ultimately to deprive him of his wages.

25.

Said illegal incarceration and consequent deprivation of your relator's liberty has been continued and currently is being perpetuated as a result of the combined and conserted efforts of respondent Sheriff, the aforesaid deputies, and W. E. Logan and Bertrand DeBlanc; that on the face of the record it is obvious that the bill of information filed by the District Attorney was filed solely in an effort to deprive relator of his legal rights to a preliminary examination hearing and to further continue to deprive relator of his liberty, inasmuch as said District Attorney and his assistants have had knowledge of relator's incarceration since January 26, 1962, and never until the [fol. 20] morning of March 9, 1962, the scheduled date for the hearing for said preliminary examination, did said District Attorney see fit or feel justified to file a bill of information against your relator.

26.

Your relator's arrest and incarceration and continued incarceration were procured and continue to be sustained in violation of his constitutional and civil rights, to-wit:

a. His arrest without a warrant was in violation of R.S.15:59, 60;

b. His right to be immediately brought before a committing magistrate after his arrest was denied in violation of R.S.15:79, 80;

c. His right to a preliminary examination was summarily denied in violation of R.S.15:155 et seq.;

d. He is being denied of a speedy trial in violation of his constitutional rights under the State Constitution and his rights under the Fourteenth Amendment to the United States Constitution;

e. He is being denied of his liberty as a result of a conspiracy among officers acting under color of law;

f. The refusal of the Court to grant him a hearing operates to deprive relator of constitutional due process and equal protection.

27.

Relator is a pauper inasmuch as he has no property or means wherewith to pay costs of these proceedings; further he has no adequate remedy by appeal in that he has no appeal whatever from the ruling complained of; further because of his impoverished condition he is unable to post bond for his release from jail and unless he is granted the relief herein requested, he will have to remain in jail for an indefinite period of time.

[fol. 21] 28.

Relator has notified respondent judge of his intent to apply to your Honors for writs, a copy of which notice is annexed hereto and marked Exhibit H.

WHEREFORE, it is prayed that a writ of habeas corpus issue, directed to respondent Sheriff, W. E. Harson, commanding him to produce Sidney Arceneaux before this Honorable Court, and after due proceedings that relator be ordered released from custody.

It is further prayed, in the alternative, that writs of certiorari and prohibition issue to A. Wilmot Dalferes, respondent judge, in order that this Honorable Court may rule upon the constitutionality of R.S.14:107 (8), and whether said statute, and R.S.15:340, Article 7, Section 42, and Article 7, Section 10 of the Louisiana Constitution, insofar as Section 10 relates to criminal appeals, (Article 10, Section 83 being considered therewith), are contrary to and violative of the provisions of the United States Constitution, and in particular the Fifth, Sixth and Fourteenth Amendments thereto.

It is further prayed, unless writ of habeas corpus issue herein, that writ of mandamus issue to said respondent judge, commanding him forthwith and without delay to recall his order of March 9, 1962 relating to denial of preliminary examination and that he proceed at once to conduct such preliminary examination.

[fol. 22] Relator further prays to be permitted to file and pursue these proceedings without the payment of costs or the giving of bond as security therefor.

SIMON & TRICE
301 E. Congress Street
Lafayette, Louisiana

By /s/ J. Minos Simon

STATE OF LOUISIANA

PARISH OF LAFAYETTE

BEFORE ME, the undersigned authority in and for the State and Parish aforesaid, personally came and appeared J. MINOS SIMON, who, being first duly sworn, did depose and say that he is of counsel for relator in the above and foregoing application, that he has read same and the allegations therein contained are true and correct to the best of his knowledge, information and belief, and that a copy has been duly mailed to Honorable A. Wilmot Dalferes and to Honorable W. E. Harson, made respondents therein.

/s/ J. Minos Simon

SWORN TO AND SUBSCRIBED before me on this 12th day of March, 1962.

/s/ William J. Frazer
Notary Public

[fol. 23] EXHIBIT A TO APPLICATION

STATE OF LOUISIANA

PARISH OF LAFAYETTE

SIDNEY ARCENEAUX, being first duly sworn according to law, did depose and say that:

My name is Sidney Arceneaux. I was born in Acadia Parish, Louisiana, on December 16, 1934 of the marriage between Cleveland Arceneaux and Josephine Lentier. I also have six sisters born of this marriage. I only have a fourth grade education. When I was young my father was crippled and my mother was ill and as a result my two older sisters and I had to work in the fields to help support the family and therefore I could attend public schools only on Friday of each week. I attended school in that manner for approximately seven years but only got to the fourth grade.

I had no particular skill and had been earning my living working in fields as a field hand for meager wages. Sometimes during the month of April, 1961, I was hired by Meus Lagneaux of Judice, Louisiana, which is in Lafayette Parish, Louisiana, on agreed terms of $4.00 a day plus room and board. My duties were of a general nature. I was called upon to do whatever labors had to be performed on farm land owned by my employer. My living quarters consisted of a one room building of the approximate dimensions of eight by ten feet. The accommodations in this room consisted of one bed and one electric light bulb. There were no commode facilities, no heat and only one pipe carrying running water that led into this one room without a basin or any other facilities with which to wash myself. The only toilet facility I had consisted of a wash pan. I was fed only twice a day generally and that was at noon and at night. I was required to go to the kitchen of my employer's residence to eat. On [fol. 24] an average of about twice a week, however, I was fed only once a day inasmuch as my employer and his family left the residence at night time without feeding me. My said employer paid my wages for the first month, but thereafter consistently refused to pay me.

The payments which were made were in cash. I was never given any reason for his refusal to pay my wages after the first month. I repeatedly asked my employer to pay me my wages and on each occasion I was advised that he would pay me at a later date. I continued in this status existing under these circumstances for about eight months and except for the first month, I received no wages whatever.

I was required to remain on the farm land each day of the week except Sundays and except for two other occasions on which I was permitted to leave at night time. I was required to work whenever I was called upon to work and this was from approximately 5:00 o'clock in the morning until approximately 7:00 o'clock in the afternoon. I remained at my employer's farm for several reasons, the principal of which is that I had no other available employment nor did I have the time to seek out any additional employment. I had no money with which to travel or with which to purchase my food should I have left the premises. Additionally, I remained because I was always hopeful that my employer would pay my back due wages.

On or about January 16, 1962 my employer directed me to feed the cattle and I told him on that occasion I would not do so inasmuch as he refused to pay me my wages and furthermore that these chores were those of a colored employee. He thereupon told me to leave the premises. I again asked for my back wages but my em- [fol. 25] ployer answered me saying only that I had to leave the premises. I then asked him if I could leave my small amount of clothing in my room for approximately a week while I hitch-hiked to New Orleans to my sister's house there and try to obtain employment. He advised me this was agreeable and on that same day I hitch-hiked to New Orleans.

I failed to find employment in New Orleans because I didn't have the education requirements to qualify. On January 25, 1962, I returned to Lafayette Parish. On my return I met the brother of Mrs. Joseph Sonnier while in Scott, Louisiana, who told me he thought Mrs. Sonnier needed a helper at her dairy. Together we went to Mrs.

Sonnier's home to determine whether or not I could be employed. Mrs. Sonnier agreed to employ me. Mrs. Sonnier then advised me to report for work the following day. At this time it was approximately 5:00 o'clock in the evening, so I decided to return to my room on Mr. Lagneaux's property for the purpose of getting my clothes and sleeping there over night in preparation to report for work the following morning.

I arrived at my room, put my clothes together, saw that all my clothes was in tack then I left to see Reule Breaux. I walked approximately three miles to see Mr. Breaux to ask him to borrow $2.00 or $3.00 in order to buy something to eat. Mr. Breaux told me he had no money on him and could not lend me the money. By then it was approximately 5:30 P.M. I returned to my room. On entering my room I turned the light on and had been there for approximately ten minutes when four deputies of the Sheriff's office of Lafayette Parish appeared in my room. [fol. 26] One of these deputies was Mr. Murphy Lagneaux, the son of Meus Lagneaux, my former employer. These deputies advised me that Mr. Meus Lagneaux had instructed them to pick me up because I was trespassing on private property. They promptly took me into their custody and placed me in the Parish Jail.

As soon as they put me in jail, I asked to call an attorney, James Domengeaux of Lafayette. I was informed by the officers that they did not have time to let me use the telephone and that they would call him. I received no contact from the attorney for two or three days thereafter and repeatedly for approximately three weeks I continued to ask to call Mr. Domengeaux, but on each occasion I was told by the deputies that they did not have time to let me use the telephone but that they would call for me. Approximately three weeks after I was in jail, I heard from no attorney. I therefore asked to be permitted to use the telephone to call Mr. Harold Savoie, another attorney of Lafayette, but I was refused and given no reason for this refusal. Thereafter on or about February 26, one of my cell mates gave me the name and number of J. Minos Simon, attorney of Lafayette. I immediately asked to use the telephone to call Mr. Simon and then

without question I was immediately permitted to use the telephone to call Mr. Simon which I did.

A very few days after I was interviewed by Mr. Simon one of the deputies, Mr. Earl Picard, took me out of my cell, brought me into an interrogation room and started to question me for the first time since I had been in Jail, January 25, 1962.

[fol. 27] The substance of the interrogation consisted of the following. Deputy Picard asked me if it was true that I had attempted to borrow money from Mr. Reule Breaux, who was the acquaintance mentioned above, to which I answered in the affirmative. He then asked me if it was true that I had bummed cigarettes off of the nigroes living about a quarter of a mile from Mr. Meus Lagneaux's residence. I answered that this was not true. He then asked me if I had kissed one of the colored girls working on Mr. Meus Lagneaux's land, to which I said that I had not. I was then asked if it was true that I said I would kill Mr. Meus Lagneaux with a pipe, to which I said it was not true. Mr. Picard then told me that I needed no lawyer to defend me against the charges filed against me. I told him I was going to get me a lawyer anyway I didn't have any money. He also told me that another of Mr. Meus Lagneaux's sons, namely Doyce Lagneaux, had told him, Earl Picard, that I had stated while in Doyce Lagneaux's store that I would kill Mr. Meus Lagneaux with a pipe.

/s/ Sidney Arceneaux
SIDNEY ARCENEAUX

SWORN TO AND SUBSCRIBED before me on this day of March, 1962, at Lafayette, Louisiana.

.....
Notary public

[fol. 28] EXHIBIT B TO APPLICATION

STATE OF LOUISIANA,

PARISH OF LAFAYETTE

AFFIDAVIT

BEFORE ME, THE UNDERSIGNED AUTHORITY personally came and appeared:

Mayo Decou, info. rec'd.

Who, being duly sworn according to law, deposes and says:

That one Sidney J. Arceneaux, w/m at the Parish and State aforesaid did, on or about the 25th day of January, 1962 did commit the crime of Vagrancy, as defined by R.S. 14:107 (8), in he was found on private grounds belonging to Meux Lagneaux, located in the 2nd Ward of Lafayette Parish, without being able to account for his lawful presence there,

Filed this 29 day of Jan. 1962

/s/ Mavis Romero
Clerk of Court
DY.

Contrary to the form and statute in such cases made and provided against the peace and dignity of the State of Louisiana.

/s/ Mayo Decou

Sworn to and subscribed before me this 26th day of January, 1962 at Lafayette, Louisiana.

/s/ Joan R. Slaughter

WITNESSES:

Accused: Parish Jail

DY Clerk of Court

Warrant delivered to:

Sheriff Harson

Date Jan. 26, 1962

Norris Meyers, Deputy
Lester Landry
Andrus Arabie

DISPOSITION

Plea .....

.....

.....

A TRUE COPY

3-9-62

/s/ Mavis Romero

[fol. 29]

To: Clerk, City Court of Lafayette

FILED THIS 29
DAY OF Jan. 1962

/s/ Mavis Romero
Dy. Clerk of Court

PLEASE PERMIT Mayo Decou (info. received) to make a criminal charge against Sidney J. Arceneaux w/m whose address is Parish Jail that he did on or about the 25th day of January 1962.

Vagrancy—Meus Lagneaux—2nd Ward.

TRUE COPY ATTEST

3-9-62

/s/ Mavis Romero

Deputy Landry, Sheriff's Office
Deputy Arabie, Sheriff's Office
Deputy Meyers, Sheriff's Office

/s/ W. E. Logan Jr.
Ass't District Attorney

[fol. 30] EXHIBIT C TO APPLICATION

## WARRANT

State of Louisiana, Parish of Lafayette

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14982

TO Sheriff Harson Greeting

WHEREAS, Complaint has been made before me, the undersigned authority in and for the parish aforesaid, upon oath of Mayo Decou, info. rec'd. that one Sidney J. Arceneaux, w/m at the parish aforesaid did on or about the 25th day of January A.D., 1962, did commit the crime of Vagrancy, as defined by R.S. 14:107 (8), in that he was found on private grounds belonging to Meus Lagneaux, located in the 2nd Ward of Lafayette Parish, without being able to account for his lawful presence there, contrary to the form of the statute in such cases made and provided.

These are therefore to command you, in the name of the State of Louisiana, to apprehend the said Sidney J. Arceneaux, w/m forthwith and bring him before me to answer to complaints aforesaid, and be further dealt with according to law.

Given under my hand officially this 26 day of January, 1962.

/s/ Lucien C. Bertrand Jr.
City Judge, Ad Hoc

Accused can be located at Parish Jail

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ORDER:

Considering the motion (petition) of accused, as well as the law in such case made and provide

IT IS ORDERED, that Sidney J. Arceneaux, w/m be released from custody upon furnishing bond in the sum of $50 with surety acceptable to the Sheriff or any proper officer and conditioned as provided by law.

Granted at Lafayette, Louisiana, this 26th day of January, 1962

/s/ Lucien C. Bertrand, Jr.
City Judge, Ad Hoc

[fol. 31] EXHIBIT D TO APPLICATION

STATE OF LOUISIANA

*vs.*

SIDNEY ARCENEAUX

15th Judicial District Court

Parish of Lafayette

Cr. Docket No. 14982

## MOTION FOR PRELIMINARY EXAMINATION, ALTERNATIVELY HABEAS CORPUS

Sidney Arceneaux, appearing herein through counsel, moves for a preliminary examination or alternatively a writ of habeas corpus in support whereof movant respectfully represents that:

1.

On January 26, 1962, he was charged by affidavit with the offense of vagrancy; no indictment or information has been filed against him and he has been incarcerated since the filing of said charge where he presently remains in the parish jail of Lafayette; that said charge is without legal basis either in fact or law.

WHEREFORE movant prays that a preliminary examination or hearing be held contradictorily with the District Attorney or alternatively a writ of habeas corpus issue and after due hearing movant be discharged.

SIMON & TRICE
301 E. Congress Street
Lafayette Louisiana

By /s/ J. Minos Simon

## ORDER

Considering the foregoing motion;

IT IS ORDERED that a preliminary examination be and the same is hereby fixed for hearing for the 8th day of March, 1962; alternatively that the Sheriff of Lafayette Parish do show cause on said date why movant should not be released from custody and further that said hearing be held contradictorily with the District Attorney.

[fol. 32] OFFICIALLY GRANTED on this 27th day of February 1962, at Lafayette, Louisiana.

/s/ Wilmot Dalferes
District Judge

FILED THIS 28
DAY OF Feb. 1962

/s/ Mavis Romero
Clerk of Court
Dy

A TRUE COPY ATTEST

Lafayette, La. 3-9-62

/s/ Mavis Romero
DY Clerk of Court

[fol. 33] EXHIBIT E TO APPLICATION

STATE OF LOUISIANA )
PARISH OF LAFAYETTE )

BE IT REMEMBERED, That on the 8th day of March A. D., 1962 Bertrand De Blanc District Attorney of the Fifteenth Judicial District of the State of Louisiana, prosecuting in said capacity, for and in the name and by the authority of said State within and for the district aforesaid, in his own proper person comes into the Court of said District at the regular term thereof for the year A. D., 1962 holden in and for the parish of Lafayette ..... and here gives the Court to understand and be informed that SIDNEY J. ARCENEAUX at the Parish of Lafayette on or about the 25th day of January in the year of our Lord, one thousand nine hundred and Sixty-two (A.D. 1962) did commit the crime of Vagrancy as defined by R.S. 14:107 (8), in that he was found on private grounds belonging to Meus Lagneaux without being able to account for his lawful presence thereon contrary to the form of the Statute of the State of Louisiana, in such cases made and provided, and against the peace and dignity of the same.

/s/ Bertrand De Blanc
District Attorney Fifteenth
Judicial District of Louisiana

[fol. 34] No. 14983

STATE OF LOUISIANA

*vs.*

SIDNEY J. ARCENEAUX

---

INFORMATION

CHARGE

VAGRANCY

Filed March 9 1962

/s/ Marilyn Champagn
Dy. Clerk of Court.

A TRUE COPY ATTEST
Lafayette La. 3-9-62

/s/ Mavis Romero
Dy. Clerk of Court

[fol. 35] EXHIBIT F TO APPLICATION

STATE OF LOUISIANA

*vs.*

SIDNEY ARCENEAUX

15th Judicial District Court
Parish of Lafayette
State of Louisiana
Criminal Docket No. 14982

## ANSWER TO MOTION FOR PRELIMINARY EXAMINATION

NOW INTO COURT comes BERTRAND DE BLANC, DISTRICT ATTORNEY, in and for the Fifteenth Judicial District, who for answer to the application for a preliminary examination in the above entitled and numbered cause, says:

I.

That on March 9, 1962, he filed a Bill of Information giving the Court to understand and be informed that Sidney Arceneaux at the Parish of Lafayette on or about the 25th day of January, in the year of our Lord, one thousand nine hundred and Sixty-two (A.D. 1962) did commit the crime of Vagrancy as defined by R.S. 14:107 (8), in that he was found on private grounds belonging to Meus Lagneaux without being able to account for his lawful presence thereon contrary to the form of the Statute of the State of Louisiana, in such cases made and provided, and against the peace and dignity of the same.

WHEREFORE, respondent prays that the application for a preliminary examination be denied and for all general and equitable relief.

/s/ Bertrand De Blanc
District Attorney

A TRUE COPY ATTEST
Lafayette La. 3-9-62

/s/ Mavis Romero
Dy. Clerk of Court

Filed 3-9-62

/s/ Carolyn D. Walker
Dy Clerk of Court

[fol. 36] EXHIBIT G TO APPLICATION

STATE OF LOUISIANA

*vs.*

SIDNEY ARCENEAUX

Fifteenth Judicial District Court
No. 14,982
Parish of Lafayette, Louisiana

NOTE OF EVIDENCE taken in open court at Lafayette, Louisiana, this 9th day of March, A.D., 1962:

PRESENT: Honorable A. Wilmot Dalferes, Judge

Mr. William Logan, Jr., Assistant District Attorney, for the State.

Simon and Trice, for the defendant, Mr. Phil Trice appearing.

THE COURT: This order for a preliminary examination was obtained on February 27, 1962; the order fixing the hearing for March 8, 1962, was obtained by the relator; on March 8th the matter was continued on motion of the District Attorney on the grounds that he had not been properly served; motion was granted and the matter was continued until March 9, 1962; on March 9, 1962, the State through the District Attorney appeared and filed answer to the motion for a preliminary examination, alleging that on March 9th, prior to the calling up of the preliminary examination for hearing a bill of information had been filed against the defendant, which information is filed in these proceedings.

You submit the matter to the court to dismiss this preliminary examination?

MR. LOGAN: Yes, sir.

ARGUMENTS OFF THE RECORD

THE COURT: The accused is before the court on a charge of vagrancy growing out of the filing of an affidavit on January 26, 1962. On the same date the com-

mitting magistrate, Mr. Lucien Bertrand, Judge Ad Hoc, City Court, fixed the bond of the accused at $50.00. The defendant has been incarcerated in the parish jail since his arrest on January 25, 1962; in spite of a bond being fixed in the case, he has not exercised the privilege of release by furnishing bond. The court is not informed whether he is unable to furnish bond or whether he does not desire to furnish a bond.

[fol. 37] The court is presented this morning with the situation where following the granting of a preliminary examination and subsequent to the hearing the State has filed a bill of information tracking the charges of the original affidavit filed on January 26. The court is of the opinion that the purpose of a preliminary examination is to grant to the defendant a discharge if he is not guilty of a crime or a fair bond if the bond is excessive, or a bond if the charge is bailable under our existing law.

The Court will sustain the motion of the state and recall its order for a preliminary examination in view of the fact that an information was filed by the District Attorney prior to the hearing for a preliminary examination.

MR. TRICE: To which ruling of the court we respectfully object for the following reasons: first, that the ruling grants to the State relief not requested by the State in its answer; second, that the preliminary examination having been ordered at a time when the granting of same was mandatory, the right of the accused to such examination cannot subsequently be denied by the action of the District Attorney in filing a bill of information on the date set for preliminary examination; third, on the grounds that the bill of information charges no offense known to law and if it charges an offense within the meaning and intentment of a Louisiana statute, then both the statute and the bill of information are unconstitutional, null, and void, as being violative of the guaranties contained in the United States Constitution and of the Louisiana Constitution and Laws; and finally, on the grounds that the accused as I heretofore stated to the court is unable to make bond and his continued stay in jail for six weeks is indicative of that fact, and that

the entire course of this prosecution is further violative of his right to a speedy trial as guaranteed by both Federal and Louisiana laws.

We, of course, reserve a bill of exception to your Honor's ruling, making the statement of facts of the court, and the ruling of the court, and our objection a part thereof, as well as of course the bill of information [fol. 38] and the answer filed this morning on behalf of the District Attorney. We also ask to make part thereof the affidavit bearing No. 575 filed in the Clerk's office, together with the charge slip attached thereto filed by Mr. Logan as Assistant District Attorney.

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I, John Rixie Mouton, Official Court Reporter, do hereby certify that the above and foregoing three pages constitute all of the evidence adduced in the trial of this cause on this the 9th day of March, 1962.

.....
Official Court Reporter

[fol. 39] EXHIBIT H TO APPLICATION

SIMON & TRICE
Attorneys at Law
301 E. Congress Street
LAFAYETTE, LOUISIANA

J. Minos Simon
Phil Trice

P. O. Box 2241
Telephone CE 4-3263
Our File No. L-411

March 9, 1962

Honorable A. Wilmot Dalferes
District Judge
Lafayette Parish Courthouse
Lafayette, Louisiana

Dear Judge Dalferes:

This is to inform you that on behalf of Sidney Arceneaux and the proceedings before you this morning, we are applying to the Louisiana Supreme Court for a writ of habeas corpus and, alternatively, for writs of mandamus, certiorari and prohibition.

Very truly yours,

SIMON & TRICE

BY: .....
PHIL TRICE

PT:sc

[fol. 40]

[Clerk's Certificate to foregoing transcript omitted in printing]

[fol. 41]

SUPREME COURT OF THE UNITED STATES

No. 42 Misc., October Term, 1962

SIDNEY ARCENEAUX, PETITIONER

*vs.*

LOUISIANA

On petition for writ of Certiorari to the Supreme Court of the State of Louisiana.

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS AND GRANTING PETITION FOR WRIT OF CERTIORARI—February 18, 1963

On consideration of the motion for leave to proceed herein *in forma pauperis* and of the petition for writ of certiorari, it is ordered by this Court that the motion to proceed *in forma pauperis* be, and the same is hereby, granted; and that the petition for writ of certiorari be, and the same is hereby, granted. The case is transferred to the appellate docket as No. 835.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

☆ U. S. GOVERNMENT PRINTING OFFICE: 1963 692751 3